

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

H. DOYL BURKETT,

Plaintiff,

v.

UNION SECURITY INSURANCE  
COMPANY, a foreign corporation, fka  
FORTIS BENEFITS INSURANCE  
COMPANY, a foreign corporation,

Defendant.

No. C06-1021RSL

ORDER ON STIPULATION  
REGARDING APPLICATION  
OF THE WASHINGTON  
PREJUDICE RULE

This matter comes before the Court on the parties' "Stipulation and Order Re:  
Application of the Washington Prejudice Rule" (Dkt. #20). In this filing, the parties:

[S]tipulate and respectfully request that the Court enter an order that pursuant to the decisions of the Supreme Court in UNUM Life Ins. Co. of America v. Ward, 526 U.S. 358 (1999) and Kentucky Assn. of Health Plans Inc. v. Miller, 538 U.S. 329 (2003), Washington's prejudice rule is a state law that "regulates insurance," is thereby saved from ERISA preemption, and applies to the case at bar.

See Dkt. #20 at 1.

"[P]arties may not stipulate to the legal conclusions to be reached by the court." Saviano v. Comm'r of Internal Revenue, 765 F.2d 643, 645 (7th Cir. 1985). "Issues of law are the province of courts, not parties to a lawsuit, individuals whose legal conclusions may be tainted by self-interest. Courts, accordingly, 'are not bound to accept as controlling, stipulations as to questions of law.'" TI Federal Credit Union v. Delbonis, 72 F.3d 921, 928 (1st Cir. 1995)

ORDER

1 (quoting Estate of Sanford v. Comm'r, 308 U.S. 39, 51 (1939)). Accordingly, the stipulation  
2 and proposed order (Dkt. #20) received by the Court will remain lodged in the file, but will not  
3 be entered.

4 The parties may, of course, file a motion fully briefing the issue of whether Washington's  
5 prejudice rule is saved from preemption under the facts of this case. The parties' stipulation  
6 alone, however, fails to articulate the specific Washington rule to be applied and why this rule is  
7 saved from ERISA preemption. The case cited by the parties, UNUM Life Ins. Co. of Amer. v.  
8 Ward, 526 U.S. 358 (1999) discussed California's notice-prejudice rule. This Court declines,  
9 however, to decide whether Washington's prejudice rule is preempted based only on citation to  
10 the UNUM case and Kentucky Ass'n of Health Plans, Inc. v. Miller, 538 U.S. 329 (2003),  
11 especially since the Supreme Court noted that this issue is "so heavily dependent on analysis of  
12 state law." UNUM, 526 U.S. at 368.

13 For all the foregoing reasons, the Court declines to enter the parties' proposed order (Dkt  
14 #20).

15 DATED this 13th day of February, 2007.

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18 Robert S. Lasnik  
19 United States District Judge  
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